

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TYRONE EVERETTE WHEATLEY

*

v.

*

Civil Action No. AMD-09-2117

JUDY McCORMICK

*

MEMORANDUM

This case was filed on August 12, 2009, together with a motion to proceed in *forma pauperis*. Paper No. 2. Plaintiff, an inmate, asserts that his mental health is being adversely affected by his case manager's refusal to do anything about a pending parole revocation proceeding. Paper No. 1. He states that other charges he faced have been resolved and he should be eligible for a revocation hearing. *Id.* He claims the stress is causing him to be hostile toward correctional staff. *Id.*

This Court is obliged by 28 U.S.C. §1915A to screen prisoner complaints and dismiss any complaint that is frivolous, malicious or fails to state a claim upon which relief may be granted. In deciding whether a complaint is frivolous "[t]he district court need not look beyond the complaint's allegations It must, however, hold the pro se complaint to less stringent standards than pleadings drafted by attorneys and must read the complaint liberally." *White v. White*, 886 F. 2d 721, 722-723 (4th Cir. 1989).

There is no constitutional or federal statutory provision which requires a prison case manager to schedule a parole revocation hearing or to ask that a hearing be scheduled by a Parole Commission. To the extent that there is a duty imposed by Maryland state law, plaintiff must seek redress under that provision in state court. The complaint must be dismissed.

Plaintiff is reminded that under 28 U.S.C. §1915(g) he will not be granted *in forma pauperis* status if he has "on 3 or more prior occasions, while incarcerated or detained in any

facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” The instant case will be the first filed by plaintiff that has been dismissed as frivolous. For the reasons stated, this case will be dismissed by separate order

Filed: August 24, 2009

_____/s/_____
Andre M Davis
United States District Judge